

Curry  
in 263F

April 27, 1955

NEW HAMPSHIRE LAW LIBRARY

SEP 22 1998

CONCORD, N.H.

James J. Barry, Commissioner  
N. H. Department of Public Welfare  
State House Annex  
Concord, New Hampshire

Re: Membership of the Loudon School District  
in the State Employees' Retirement System

Dear Mr. Barry:

You have asked my opinion whether the Loudon School District is a member of the State Employees' Retirement System and, if so, whether this membership may be terminated. It is my opinion that the District is a member of the system and without legislative sanction it may not withdraw.

At the 1950 District School Meeting articles were adopted providing for participation of eligible employees in the State Employees' Retirement System. Another article in the warrant sought to appropriate a sum of money for the new building. This latter article was not adopted and such a sum was not appropriated until 1954. Apparently until the new building was erected, the District had no employees eligible for membership in the system. The District apparently feels that the three articles should be read together as it was intended that the benefits of the retirement system be extended to a full-time janitor needed upon the erection of the new school building.

This may have been the intent of the District, but it is an unexpressed intent and is nowhere apparent from the language of any of the articles. This being so, it can be nothing more than an assumption now and, because of this, it is my opinion that by its action in 1950 the District effectively voted to extend membership to any eligible employees it might then have had or to any future eligible employees.

The factual situation is very comparable to a District which might adopt membership in 1950 and the eligible employees having

C O P Y

OFFICE OF ATTORNEY-GENERAL

James J. Barry, Commissioner

- 2 -

April 27, 1955

exercised their option not to participate so that there would be no active members until the District acquired new employees who would not have any such option.

Having become a member of the system, there may be no withdrawal by the District without appropriate legislative action permitting such withdrawal.

Very truly yours,

Richard C. Duncan  
Assistant Attorney General

RCD/aml